SUPREME COURT, U. S.

FILED

JUL 12 1967

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 19____

No. 1298

HERMAN J. HEIDRICH,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

MOTION FOR LEAVE TO FILE PETITION FOR REHEARING OUT OF TIME

JAMES L. GUILMARTIN
1525 Alfred I. duPont Bldg.
Miami, Florida 33131
and
STANLEY JAY BARTEL
1525 Alfred I. duPont Bldg.
Miami, Florida 33131
Counsel for Petitioner

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Petitioner, HERMAN J. HEIDRICH, respectfully moves for leave to file Petition for Rehearing out of time, and would show that:

1. Through inadvertence, the filing deadline for the Petition for Rehearing in this cause was mis-calendared in the office of undersigned counsel for the 10th day of July, 1967, whereas it should have been calendared for ten (10) days earlier, or the 30th day of June, 1967.

2. Meanwhile, but to corroborate Petitioner's intention to timely file, Petitioner did apply for further stay in the instant case by formal motion directed in vacation

to the Honorable Hugo L. Black, Circuit Justice for the Fifth Circuit. The original of this motion was filed with the Clerk of this Court on June 9, 1967, well within the 25-day period from denial of certiorari, which occurred on June 5, 1967.

3. The Petition for Rehearing centers on the same new case cited in the application to Mr. Justice Black, *Entsminger* vs. *Iowa*, ___ U.S. ___, 87 S.Ct. 1402, 18 L.Ed. 2d 501 (1967), which appears to have been denied without prejudice. [See endorsement of Mr. Justice Black on the Motion for Stay of Issuance of Denial of Writ of Certiorari ("Facts stated do not justify a stay")].

4. There is authority of this Court for the relief herein requested. E.g., *Zap* v. *United States*, 330 U.S. 800; *Remmer* v. *United States*, 348 U.S. 904.

WHEREFORE, Petitioner respectfully prays that he be granted leave to file his Petition For Rehearing out of time.

Respectfully submitted,

JAMES L. GUILMARTIN
1525 Alfred I. duPont Building
Miami, Florida 33131

STANLEY JAY BARTEL
1525 Alfred I. duPont Building
Miami, Florida 33131

STATE OF FLORIDA)
) ss.
COUNTY OF DADE)

BEFORE ME, the undersigned authority duly authorized to administer oaths, personally appeared STANLEY JAY BARTEL, to me well known, who after being duly sworn did say upon his oath that he is of counsel for the Petitioner herein; that upon receipt of notice of denial of certiorari in this cause he instructed the Chief Secretary in his law firm, GUILMARTIN & BARTEL, whose duty it is to calendar all litigation matters in this office, to calendar 25 days denial of certiorari in which to file for rehearing in this cause and to note such deadline on all calendars in this office; that said Secretary inadvertently miscalendared such due date, as reflected in Paragraph 1 of the above and foregoing motion.

STANLEY JAY BARTEL

Stanley Jay Bartel

SWORN TO AND SUBSCRIBED before me this 10 day of July, 1967, at Miami, Dade County, Florida.

Josephine T. VanNostrand

Notary Public
State of Florida at Large

Notary Public, State of Florida at Large
My Commission Expires August 11, 1968